IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21272 of 2004

Between:

1. Garapati Nageswararao, S/o. G. Prakasha Rao,
   R/o. Pedamunakanagedda (V), Addateegala (M), East Godavari District.
2. Garapati Ranga Rao, S/o. G. Prakasha Rao,
   R/o. Pedamunakanagedda (V), Addateegala (M), East Godavari District.

..... PETITIONERS

AND

1. The Additional Agent to the Government, Rampachodavaram, East Godavari District.
2. The Special Deputy Collector, Tribal Welfare, Rampachodavaram, East Godavari District.
3. The Mandal Revenue Officer, Addateegala(M), East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in evicting the petitioners from the lands to an extent of Ac. 4.94 cents in Sy.No.74-1 and AC 4.57 cents in Sy.No. 74-2 respectively, of Peddamunakanagedda (V), Addateegala (M), East Godavari District, in pursuance of the order of the 2nd respondent in L.T.r. P.No. 21/2004, dated 10-6-2004 as illegal, arbitrary and unconstitutional and consequently direct the respondents not to evict the petitioners from the above lands pending disposal of the statutory appeal preferred before the 1st respondent.

Counsel for the Petitioners:MR.D.KRISHNA PRASAD

Counsel for the Respondent Nos.1 to 3: GP FOR SOCIAL WELFARE

The Court made the following :

ORDER:

This writ petition is filed to issue a writ of Mandamus declaring the action of the respondents in evicting the petitioners from the lands in S.Nos.74/1 measuring Ac.4.94 cents and 74/2 measuring Ac,4.57 cents of Peddamunakanagedda village, Addateegala Mandal, East Godavari District, in pursance of the orders of the second respondent-Special Deputy Collector, Tribal Welfare, Rampachodavaram, East Godavari District, in L.T.R.P.No.21 of 2004 dated 10.06.2004, as arbitrary and illegal.

2. The claim of the petitioners is that they were granted D-Form pattas in respect of the lands in question in the year 1978, and since then they have been in continuous possession and enjoyment of the same. The second respondent, by an order dated 10.06.2004, ordered for eviction of them from the lands in question for restoration of the same to the Government for onward distribution to eligible tribals. Challenging the same, the present writ petition is filed.

3. Heard the learned counsel for the petitioners and the learned Government Pleader for Social Wefare appearing for the respondents.

4. It is stated in the affidavit in support of the writ petition that against the order of the second respondent in L.T.R.P.No.21 of 2004 dated 10.06.2004, an appeal has been preferred by the petitioners before the first respondent and it is pending. Hence, the petitioners cannot be permitted to prosecute two parallel proceedings in respect of the same cause of action.

5. Therefore, the writ petition is disposed of with a direction to the first respondent to dispose of the appeal, if any, preferred by the petitioners against the impugned order, within a period of four weeks from today. If an Appeal is already preferred, status quo as on today shall be maintained till the disposal of the appeal. If no appeal is preferred, there is no status quo order.

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K.C.BHANU, J

22nd November, 2004.

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To

1. The Additional Agent to the Government, Rampachodavaram,
East Godavari District.
2. The Special Deputy Collector, Tribal Welfare, Rampachodavaram,
East Godavari District.
3. The Mandal Revenue Officer, Addateegala(M), East Godavari District.

4. 2CCs to the G.P. for Social Welfare, High Court Buildings, Hyderabad
(OUT).

5. 2CD copies.